IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 2373 OF 2005

Asgarali Sharafali Sethwala & Anr. ...Applicants

Versus

Riyaz J. Patrawala & Anr ...Respondents

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Mr. Parvez I. Ubharry, Advocate for Applicants

Mr. S.S. Pednekar, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.
DATED: 8TH JUNE, 2005

P. C.:-

1. Heard the learned advocate for the applicants. The learned advocate for the applicants has produced the notice which clearly shows that the respondent has been served. The said notice is taken on record and marked as "X" for identification. However, none appears for the respondent No.1.

2. The applicants have prayed for quashing of process and complaing in Criminal Case No. 77/SS/2005 which is pending in the Court of learned Metropolitan Magistrate, 20th Court, Mazgaon, Mumbai. In the said case, process has been issued against the applicants under Section 138 of Negotiable Instruments Act. If the process issued against the applicants is set aside, the proceedings in respect of the applicants would come to an end. The learned

advocate for the applicants submitted that the learned Magistrate committed an error in issuing process and the said process deserves to be set aside.

3. For the reasons recorded in my order dated 8th June, 2005 passed in Criminal Application No.645 of 2005, the applicants have an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the applicants prefer revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the applicants to prefer revision before the concerned Sessions Court. In order to enable the applicants to prefer necessary revision, the proceedings before the trial Court are stayed for a period of four weeks from today.

5. On the necessary revision being preferred by the applicant before the concerned Sessions Court, the concerned Sessions Court shall dispose of the same on merits after hearing the necessary parties.

6. Office to issue authenticated copy of this order to the parties.

7. Criminal application is disposed of.

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